UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
CHARLOTTE, NORTH CAROLINA

STATEMENT OF LAW GOVERNING APPLICATIONS FOR ASYLUM, WITHHOLDING OF REMOVAL, AND PROTECTION OF THE UNITED NATIONS CONVENTION AGAINST TORTURE UNDER INA §§ 208, 241 (Private Violence Claims)	)	IN WITHHOLDING ONLY AND REMOVAL PROCEEDINGS A (b) (6) (b) (6)

NOW COMES the Court, and adopts and incorporates herein by reference the following statement of law in its oral decision rendered in adjudicating the Form I-589 application submitted in the accompanying record of proceedings.

I. Evidence

The Court takes administrative notice of the country conditions as described in the most recent U.S. Department of State Human Rights Practices Report for the designated country of removal. 8 C.F.R. § 1208.12(a); *Quitanilla v. Holder*, 758 F.3d 570, 574 n. 6 (4th Cir. 2014); *Ai Hua Chen v. Holder*, 742 F.3d 171, 179 (4th Cir. 2014).

The Court has considered all of the documentary and testimonial evidence submitted by the parties contained in the record of proceedings, and as articulated in the verbatim transcript of the individual hearing on the merits. 8 C.F.R. § 1240.9.

II. Asylum

A. Burden of Proof

Any individual who is physically present in the United States, irrespective of status, may receive asylum, in the exercise of discretion, provided she filed a timely application and qualifies as a refugee within the meaning of section 101(a)(42)(A) of the Act. INA § 208. An alien bears the burden of proving eligibility for asylum. *Naizgi v. Gonzales*, 455 F.3d 484, 486 (4th Cir. 2006); INA § 208(b)(1)(B)(i); 8 C.F.R. § 1208.13(a).

An applicant for asylum must show that she was subjected to past persecution or that she has a "well-founded" fear of future persecution "on account of race, religion, nationality, membership in a particular social group, or political opinion." 8 C.F.R. §1208.13(b)(1). To satisfy the statutory test for asylum in this case, the respondent must demonstrate that (1) she "has a well-founded fear of persecution"; (2) her fear arises "on account of" membership in a protected social group; and (3) the harm she fears is from an organization that the government in her country of nationality "is unable or unwilling to control." *Hernandez-*

Avalos v. Lynch, 784 F.3d 944, 948–49 (4th Cir. 2015). She must demonstrate the presence of a protected ground, and must link the feared persecution, at least in part, to it. *Saldarriaga v. Gonzales,* 402 F.3d 461, 466 (4th Cir. 2005).

An alien who establishes past persecution is entitled to a rebuttable presumption that she has a well-founded fear of future persecution. 8 C.F.R. §1208.13(b)(1). Absent past persecution, an applicant may independently establish a well-founded fear of persecution. *Ngarurih v. Ashcroft,* 371 F.3d 182, 187 (4th Cir. 2004).

If an Immigration Judge determines that an alien has knowingly made a frivolous application for asylum, the alien shall be permanently ineligible for any benefits under section 208(d)(6) of the Immigration and Nationality Act. A condition precedent for this determination requires that, at the time the alien made their application for asylum, he or she received notice "of the consequences . . . of knowingly filing a frivolous application for asylum." INA § 208(d)(4)(A). An asylum application "is frivolous if any of its material elements is deliberately fabricated." 8 C.F.R. § 1208.20. The frivolous warnings provided on the Form I-589 application for asylum are adequate notice at the time it is filed, as nothing in the Act expressly requires that the warning be given by an Immigration Judge. *Ndibu v. Lynch*, 823 F.3d 229 (4th Cir. 2016).

B. One Year Time Bar

An alien applying for asylum must show "by clear and convincing evidence that the application has been filed within one year after the date of the alien's arrival in the United States." INA §208(a)(2)(B).

C. Credibility

An alien requesting asylum bears the evidentiary burden of proof and persuasion in connection with any application under section 208 of the Act. *See* INA § 208(b)(1)(B)(i); 8 C.F.R. § 1208.13(a); *Mirisawo v. Holder*, 599 F.3d 391, 396 (4th Cir. 2010). For any application for asylum filed after May 11, 2005, certain provisions of the REAL ID Act of 2005 regarding corroboration and credibility are applicable. INA § 208(b)(1)(B)(iii). An applicant's own testimony is sufficient to meet the burden of proving their asylum claim, if it is believable, consistent, and sufficiently detailed to provide a plausible and consistent account of the basis of their fear. 8 C.F.R. § 1208.13(a).

An immigration judge must provide specific, cogent reasons for making an adverse credibility determination. *Djadjou v. Holder,* 662 F.3d 265, 273 (4th Cir. 2011). In evaluating an asylum applicant's testimony, "omissions, inconsistencies, contradictory evidence and inherently improbable testimony are appropriate bases for making an adverse credibility determination." *Id.* Even the existence of only a few such inconsistencies can support an adverse credibility determination. *Id.* Following passage of the REAL ID Act of 2005, an inconsistency can serve as a basis for an adverse credibility determination "without regard to whether [it] goes to the heart of the applicant's claim." *Qing Hua Lin,* 736 F.3d 343, 352-53 (4th Cir. 2013) (citing INA § 208(b)(1)(B)(iii)).

Considering the totality of the circumstances and all relevant factors, the Court may base a credibility determination on any of the following: (1) the applicant's demeanor, candor, or responsiveness; (2) the inherent plausibility of the applicant's account; (3) the consistency between the applicant's or witness's written and oral statements, the internal inconsistencies of each statement, and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim; (4) consistency of the applicant's statements with other evidence of record, including the reports of the Department of State on country conditions; or (5) any other relevant factor. INA §§ 208(b)(1)(B)(iii); 241(b)(3)(c); *see also Singh v. Holder*, 699 F.3d 321, 328 (4th Cir. 2012).

An Immigration Judge's "credibility findings supported by substantial evidence" are given "broad but not absolute" deference. *Id.* (internal citation omitted). "[O]missions, inconsistent statements, and contradictory evidence are all cogent reasons that support an adverse credibility finding." *Kourouma v. Holder*, 588 F.3d 234, 243 (4th Cir. 2009) (citing *Dankam v. Gonzales*, 495 F.3d 113, 121 (4th Cir. 2007)). Moreover, "those omissions and inconsistencies which go to the heart of an asylum seeker's claim are greater cause for concern than those which are peripheral." *Id.* (citing *Dankam*, 495 F.3d at 122).

D. Corroboration

The REAL ID Act altered the INA's requirement regarding corroborating evidence. *Singh v. Holder*, 699 F.3d 321, 328 (4th Cir. 2012). Pursuant to the REAL ID Act, "when a trier of fact is not fully satisfied with the credibility of an applicant's testimony standing alone, the trier of fact may require the applicant to provide corroborating evidence 'unless the applicant does not have the evidence and cannot reasonably obtain the evidence.'" *Id.* at 329 (citing INA § 208(b)(1)(B)(ii) and *Matter of J-Y-C-*, 24 I&N Dec. 260, 262 (BIA 2007) ("The amendments to the [REAL ID] Act continue to allow an alien to establish eligibility for asylum through credible testimony alone, but they also make clear that where a trier of fact requires corroboration, the applicant bears the burden to provide corroborative evidence, or a compelling explanation for its absence.")) In other words, "even for credible testimony, corroboration may be required when it is reasonable to expect such proof and there is no reasonable explanation for its absence." *Lin-Jian v. Gonzales*, 489 F.3d 182, 191-92 (4th Cir. 2007) (internal citation omitted); *see also* INA § 208(b)(1)(B)(ii).

The Court's expectation of some form of corroboration falls within its discretion as the trier of fact pursuant to the REAL ID Act. *See Singh*, 699 F.3d at 332 (citing INA § 208 (b)(1)(B)(ii)). "A failure to either provide corroborative evidence following a request by a trier of fact or explain its absence further buttresses an adverse credibility determination." *Singh*, 699 F.3d at 330; *Matter of L-A-C-*, 26 I&N Dec. 516, 524-25 (BIA 2015). However, lack of corroborative evidence is not necessarily fatal to an asylum application, as "[a]n individual can, without corroboration, satisfy this standard simply by presenting credible testimony about specific facts that would cause a similarly situated person to likewise fear persecution." *Jian Tao Lin v. Holder*, 611 F.3d 228, 236 (4th Cir. 2010) (citing 8 C.F.R. § 208.13(a)).

Evidence such as letters or statements from family members or friends of an asylum applicant do not substantially corroborate their claim if prepared by a self-interested witness not subject to cross-examination, such that the trustworthiness of the declarant cannot be determined. *Djadjou v. Holder*, 662 F.3d 265, 276-77 (4th Cir. 2011); *Matter of H-L-H & Z-Y-Z-*, 25 I&N Dec. 209, 214 n.5 (BIA 2010), *abrogated on other grounds by Huang v. Holder*, 677 F.3d 130 (2d Cir.2012); *accord Hui Pan v. Holder*, 737 F.3d 921, 931 (4th Cir. 2013).

E. Statutory Grounds for Relief

Based upon concessions made by the DHS, the Board has determined that a particular social group defined in part as "women who are unable to leave their relationship" may establish a cognizable basis for asylum relief under certain circumstances. *See Matter of A-R-C-G-*, 26 I&N Dec. 388, 392-95 (BIA 2014). The Department of Homeland Security has stated on the record that it no longer concedes the legal validity of this definition as a cognizable particular social group as it did in *Matter of A-R-C-G-*. *See Velasquez v. Sessions*, 866 F.3d 188, 195 n.5 (4th Cir. 2017) (declining to apply *Matter of A-R-C-G-* nexus analysis in light of the DHS' concession as to membership in a cognizable particular social group); *see also Matter of A-B-*, 27 I&N Dec. 227 (A.G. 2018).

1. Particular Social Group

To satisfy the statutory test for asylum, an applicant must show (1) she "has a well-founded fear of persecution"; (2) her fear arises "on account of" membership in a protected social group; and (3) the threat is made by an organization that the government "is unable or unwilling to control." *Hernandez-Avalos v. Lynch*, 784 F.3d 944, 948-49 (4th Cir. 2015). She must demonstrate the presence of a protected ground, and must link the feared persecution, at least in part, to it. *Saldarriaga v. Gonzales*, 402 F.3d 461, 466 (4th Cir.2005). An alien qualifies for asylum if they were persecuted "on account of … membership in a particular social group." *Temu v. Holder*, 740 F.3d 887, 891 (4th Cir. 2014) (citing INA § 101(a)(42)(A)).

Under the REAL ID Act, an alien's membership in a particular social group must be "*at least one central reason* for persecuting the applicant" to establish their eligibility for one of the five protected grounds for asylum. INA § 208(b)(1)(B)(i) (emphasis added); *Crespin-Valladares v. Holder*, 632 F.3d 117, 127 (4th Cir. 2011). Incidents of harm that are consistent with acts of private violence, or merely show a person has been the victim of criminal activity, do not constitute evidence of persecution based on a statutorily protected ground. *Huaman-Cornelio v. BIA*, 979 F.2d 995, 1000 (4th Cir.1992).

An applicant seeking asylum based on her membership in a "particular social group" must establish that the group is (1) composed of members who share a common immutable characteristic, (2) defined with particularity, and (3) socially distinct within the society in question. *Matter of M-E-V-G-*, 26 I&N Dec. 227, 237 (BIA 2014); *Matter of W-G-R-*, 26 I&N Dec. 208, 210 (BIA 2014); *Martinez v. Holder*, 740 F.3d 902, 910 (4th Cir. 2014). "Any claim regarding the existence of a particular social group in a country must be evaluated in the context of the evidence presented regarding the particular circumstances in the country in

question." *Matter of A-R-C-G-*, 26 I&N Dec. at 392.

a. Immutability

The Board's "interpretation of the phrase 'membership in a particular social group' incorporates the common immutable characteristic standard set forth in *Matter of Acosta*[.]" *Matter of M-E-V-G-*, 26 I&N Dec. 227, 237-38 (BIA 2014). The shared characteristic of the particular social group must be one that "the members of the group either cannot change, or should not be required to change because it is fundamental to their individual identities or consciences." *Matter of Acosta*, 19 I&N Dec. 211, 233 (BIA 1985); *accord Martinez v. Holder*, 740 F.3d 902, 910-11 (4th Cir. 2014). The shared or immutable characteristic should be the characteristic that makes the group (1) generally recognizable in the community and (2) sufficiently particular to define the group's membership. *Matter of A–M–E & J–G–U*, 24 I&N Dec. 69, 74 (BIA 2007).

An asylum applicant's gender is clearly an immutable characteristic in a proposed group comprised of only women. *Matter of A-R-C-G-*, 26 I&N Dec. at 392. The Board has held that marital status can be an immutable characteristic where the individual is unable to leave the marital relationship. *Id.* at 392-93. Determination of this issue, however, is fact-dependent taking into account the applicant's own experiences, as well as more objective evidence such as background country information. *Id.* at 393. An applicant's ability to leave her domestic abuser is a significant factor to determine immutability. *Marikasi v. Lynch*, 840 F.3d 281, 291 (6th Cir. 2016).

b. Particularity

The Board's requirement of particularity chiefly addresses the "group's boundaries" or "outer limits." *Matter of M-E-V-G-*, 26 I&N Dec.at 241. More specifically, a particular social group must be defined by characteristics that provide a clear benchmark for determining who falls within the group. *Matter of A-M-E- & J-G-U-*, 24 I&N Dec. at 76. In some circumstances, terms used to describe the group can combine to create a group with discrete and definable boundaries. *Matter of A-R-C-G-*, 26 I&N Dec. at 393. For example, "a *married* woman's inability to leave [a] relationship may be informed by societal expectations about gender and subordination, as well as *legal constraints* such as *divorce and separation*." *Id.* (citing *Matter of W-G-R-*, 26 I&N Dec. at 214) (emphasis added). "The group must also be discrete and have definable boundaries -- it must not be amorphous, overbroad, diffuse, or subjective." *Matter of M-E-V-G-*, 26 I&N Dec.at 239 (citation omitted); *see also Zelaya v. Holder*, 668 F.3d 159, 166 (4th Cir. 2012) (group must have "particular and well-established boundaries"). A social group does not have to be defined with strict homogeneity, but the group cannot be "too loosely defined." *Matter of A-M-E- & J-G-U-*, 24 I&N Dec. at 74; *Matter of C-A-*, 23 I&N Dec. at 957.

A cognizable particular social group is not defined with particularity by the fact that the applicant is subject to domestic violence. *Matter of A-R-C-G-*, 26 I&N Dec. at 393 n.14 (citing *Matter of W-G-R-*, 26 I&N Dec. at 215) (recognizing that a social group must have "defined boundaries" or a "limiting characteristic" other than the risk of persecution). Groups that have failed to be recognized as a particular social groups due to a lack of particularity

include women who "have been abused by their husbands" for allegedly committing adultery. *Faye v. Holder*, 580 F.3d 37, 42 (1st Cir. 2009).

In *A-R-C-G-*, the particular social group at issue incorporated the terms "married," "women," and "unable to leave the relationship." *Matter of A-R-C-G*, 26 I&N Dec. at 393. The Board stated "[i]n some circumstances, the terms can combine to create a group with discrete and definable boundaries." *Id*. The Board stated a "married woman's inability to leave the relationship may be informed by societal expectations about gender and subordination." *Id*. The Court must be able to determine some specific characteristic of the respondent that would place her in a group with "particular and well-established boundaries" but is not "overbroad, diffuse, or subjective" given the prevalence of violence against women. *Temu v. Holder,* 740 F.3d at 895 (social group must have identifiable boundaries to meet the particularity element); *see also Perez-Rabanales v. Sessions*, 881 F.3d 61, 66-67 (1st Cir. 2018) (social group potentially encompassing any woman in Guatemala who may fall victim to violence and find herself unable to obtain official protection is too amorphous to establish particularity).

c. Social Distinction

The proposed group must also be socially distinct within the society in question, based upon "evidence showing that society in general perceives, considers, or recognizes persons sharing the particular characteristic to be a group." *Matter of A-R-C-G-*, 26 I&N Dec. at 393-94 (citing *Matter of M-E-V-G-*, 26 I&N Dec. at 240, and *Matter of W-G-R-*, 26 I&N Dec. at 217). The group's recognition is determined by the perception of the society in question, rather than by the perception of the persecutor. *Id.* at 394 (citations and quotations omitted); *see also Temu v. Holder,* 740 F.3d at 894. Sociopolitical factors such as the existence of criminal laws designed to protect domestic abuse victims, and the effectiveness of governmental efforts at enforcement of those laws are relevant evidence to determine whether the applicant's country recognizes the need to protect victims of domestic violence. *Id.* (citation omitted). "[E]ven within the domestic violence context, the issue of social distinction will depend on the facts and evidence in each individual case, including documented country conditions; law enforcement statistics and expert witnesses, if proffered; the respondent's past experiences; and other reliable and credible sources of information." *Id.* at 394-95; *see also Vega-Ayala v. Lynch*, 833 F.3d 34, 39 (1st Cir. 2016) (concluding that the proposed particular social group of "Salvadoran women in intimate relationships with partners who view them as property" lacked the requisite immutability and social distinction elements to be cognizable under the Act).

2. Nexus/ "On Account of"

a. Past Persecution

Assuming the respondent is able to establish membership in a particular social group, she still must establish such membership was "at least one central reason" for her persecution. INA § 208(b)(1)(B)(i); *Cordova v. Holder*, 759 F.3d 332, 337 (4th Cir. 2014) (citing *Crespin-Valladares v. Holder*, 632 F.3d at 127). "A persecutor's actual motive is a matter of fact to be determined by the Immigration Judge and reviewed by [the Board] for

clear error." *Matter of N-M-*, Dec. 25 I&N Dec. 526, 532 (BIA 2011) (citing *Matter of J-B-N- & S-M-*, 24 I&N Dec. 208, 214 (BIA 2007), 8 C F. R. § 1003.1(d)(3)(i)).

Seriousness of conduct is not dispositive of past persecution for purposes of determining asylum eligibility. "Instead, the critical issue is whether a reasonable inference may be drawn from the evidence to find that the motivation for the conduct was to persecute the asylum applicant on account of race, religion, nationality, membership in a particular social group, or political opinion." *Matter of V-T-S-*, 21 I&N Dec. 792, 798 (BIA 1997); *see* INA § 101(a)(42)(A). While the applicant need not show conclusively what the motive for the persecution would be, or that the persecutor would be motivated solely by a protected ground, the applicant must produce evidence from which it is reasonable to conclude that the harm would be motivated, at least in part, by an actual or imputed ground. *INS v. Elias-Zacarias*, 502 U.S. at 483; *Matter of S-A-*, 22 I&N Dec. 1328, 1336 (BIA 2000); *Matter of S-V-*, 22 I&N Dec. 1306, 1309 (BIA 2000); *Matter of S-P-*, 21 I&N Dec. 486, 489-90 (BIA 1996).

"Evidence consistent with acts of private violence or that merely shows that an individual has been the victim of criminal activity does not constitute evidence of persecution on a statutorily protected ground." *Velasquez v. Sessions*, 866 F.3d 188, 194-95 (4th Cir. 2017) (citing *Sanchez v. U.S. Att'y General*, 392 F.3d 434, 438 (11th Cir. 2004)); *see also Huaman-Cornelio v. BIA*, 979 F.2d 995, 1000 (4th Cir. 1992); *Matter of C-T-L-*, 25 I&N Dec. 341, 349 (BIA 2010) (threats to the respondent were of a personal nature and not because of membership in a particular social group).

b. Well-founded fear of future persecution

Where an alien has not met his or her burden of establishing past persecution, he or she may establish a well-founded fear of future persecution on account of a statutorily protected ground if he or she demonstrates "that (1) a reasonable person in the circumstances would fear persecution; and (2) that the fear has some basis in the reality of the circumstances and is validated with specific, concrete facts." *Mirisawo v. Holder*, 599 F.3d 391, 396 (4th Cir. 2010) (internal quotation marks and citation omitted). "In other words, an asylum applicant must demonstrate a subjectively genuine and objectively reasonable fear of future persecution on account of a statutorily protected ground." *Id.* (internal quotation marks and citation omitted).

An alien's own speculations and conclusory statements, unsupported by independent corroborative evidence, will not suffice. *Yi Ni v. Holder*, 613 F.3d 415, 429 (4th Cir. 2010) (citing *Jian Xing Huang v. INS*, 421 F.3d 125, 129 (2d Cir. 2005)). An applicant is not required to show that he or she has been singled out individually for persecution if he or she establishes a pattern or practice in her country of persecution of groups of persons similarly situated to the applicant on account of the protected ground. 8 C.F.R. § 1208.13(b)(2)(i).

An alien must demonstrated that she is unable to internally relocate within her country to avoid harm. 8 C.F.R. § 1208.13(b)(3)(ii); *Matter of M-Z-M-R-*, 26 I&N Dec. 28 (BIA 2012). To determine the reasonableness of internal relocation, the Court should consider, but is not limited to considering, whether the applicant would face other serious

harm in the place of suggested relocation; any ongoing civil strife within the country, administrative, economic, or judicial infrastructure; geographical limitations; and social and cultural constraints, such as age, gender, health, and social and family ties. 8 C.F.R. § 1208.13(b)(3).

III. Withholding of Removal

To establish eligibility for withholding of removal under INA § 241(b)(3), an applicant must "show[] that it is more likely than not that her life or freedom would be threatened in the country of removal because of her race, religion, nationality, membership in a particular social group, or political opinion." *Gomis v. Holder*, 571 F.3d 353, 359 (4th Cir. 2009) (internal quotation marks and citations omitted). While withholding of removal has "a more stringent standard than that for asylum," if an alien demonstrates eligibility for withholding of removal, such relief must be granted. *Gandziami-Mickhou v. Gonzales*, 445 F.3d 351, 353-54 (4th Cir. 2006) (internal citations omitted). An applicant who has failed to establish the less stringent well-founded fear standard of proof required for asylum relief is necessarily also unable to establish an entitlement to withholding of removal. *Mulanyi v. Holder*, 771 F.3d 190, 198 (4th Cir. 2014).

IV. Withholding of Removal under CAT

To establish eligibility for protection under the United Nations Convention Against Torture an applicant must establish "first, that it is more likely than not that [s]he will be tortured if removed to the proposed country of removal and, second, that this torture will occur at the hands of government or with the consent or acquiescence of government." *Turkson v. Holder*, 667 F.3d 523, 526 (4th Cir. 2012) (citing 8 C.F.R. § 1208.16(c)(2)). The applicant's testimony, "if credible, may be sufficient to sustain the burden of proof without corroboration." *Id.* (citing 8 C.F.R. § 1208.16(c)(2)). The Court must consider "all evidence relevant to the possibility of future torture." *Id.* (citing 8 C.F.R. § 1208.16(c)(3)). An Immigration Judge's predictive findings of what may or may not occur in the future are findings of fact, which are subject to a clearly erroneous standard of review. *Id.* at 529; *see also Matter of Z-Z-O-*, 26 I&N Dec. 586, 590 (BIA 2015).

Torture is a "term of art" under the Convention and is legally defined as:

> any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession[,] punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Id. (citing United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* Dec. 10, 1984, art. 3, 23 I.L.M. 1027, 1027).

"[I]n order to qualify as torture under the treaty [i.e., CAT], an act must be specifically intended to cause severe pain and suffering." *Oxygene v. Lynch*, 813 F.3d 541, 546-47 (4th Cir. 2016) (citing 8 C.F.R. § 208.18, and requiring government actors to be "intentionally and deliberately" creating and maintaining conditions in order to inflict torture). A public official acquiesces to torture if prior to the activity constituting torture, the official has awareness of such activity and thereafter breaches his or her legal responsibility to intervene to prevent such activity. 8 C.F.R. § 1208.18(a)(7); *Mulyani v. Holder*, 771 F.3d at 200 (citing *Lizama v. Holder*, 629 F.3d at 449). It is not necessary for a public official to have actual knowledge of the activity constituting torture. *Suarez-Valenzuela v. Holder*, 714 F.3d 241, 246 (4th Cir. 2013) (reaffirming that willful blindness can satisfy the acquiescence component of 8 C.F.R. § 1208.18(a)(1)).

Although evidence of past torture is relevant, it does not create a presumption that an applicant will be tortured in the future. *Id.* at 245 (citation omitted). Instead, immigration judges should consider evidence of past torture, evidence of "gross, flagrant or mass violations of human rights," the country's conditions, and whether the applicant could relocate to a part of the country where she or she is unlikely to be tortured. 8 C.F.R. § 1208.16(c)(3). An applicant bears the burden of presenting evidence to show that relocation within the country of removal is not possible. *Suarez-Valenzuela v. Holder*, 714 F.3d at 249; 8 C.F.R. § 1208.16(c)(2)-(3)."Violence committed by individuals over whom the government has no reasonable control does not fall within the purview of the CAT." *Id.* at 246 (differentiating the government's ability to control non-governmental actors from the rejected willful acceptance standard).

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Date

V. STUART COUCH
United States Immigration Judge
Charlotte, North Carolina